

**EXHIBIT Y**  
TO JOINT STATEMENT OF  
UNDISPUTED FACTS

**Cruz, Diane**

---

**From:** JGreen2@FFIC.COM  
**Sent:** Wednesday, March 21, 2007 6:18 PM  
**To:** Cruz, Diane  
**Subject:** Fw: Cirrus Medical

Diane – per our telephone conversation just now you have confirmed that the most that you have to contribute on behalf of Cirrus Medical towards the settlement of the above-captioned matter is \$100,000. I advised that we will need to continue to negotiate for the insured so as to properly protect their interests. To that end - we will front a contribution for what is necessary to effectuate a reasonable settlement on Cirrus's behalf - the end result of which will include your contribution for \$100,000. We are still of the position that UNG's share of the settlement is well in excess of the \$100,000 contributed to this point.

As I indicated previously to you in my email of 10/24/06:

"Both the UNG and Interstate Fire and Casualty Company policies have excess "Other Insurance" clauses - i.e. both claim to serve as excess insurance in the presence of other applicable insurance. This would, in sum, make both policies mutually repugnant and would result in a 50/50 obligation on both policies for indemnity and defense. However – the Interstate policy goes on to state that "if a loss occurs with two or more policies, each of which provides that its insurance shall be excess, each will contribute pro rata". The UNG policy is silent in that regard. As such, the pro rata provision of the Interstate policy would control. Given that the UNG policy has a \$3,000,000/\$5,000,000 limit and the Interstate policy has a \$1,000,000/\$3,000,000 limit a 1/3 split would be the appropriate pro rata apportionment of defense and indemnity in this case"

This would result in 3 UNG dollars for every 1 IFCC dollar or a 75%/25% split. To that end - by continuing to negotiate on behalf of Cirrus, so as to protect their interests in these negotiations, IFCC does not waive any action that IFCC or Cirrus Medical may have to seek contribution from UNG commensurate with the apportionment stated above that is applicable pursuant to the terms of both policies.

I will advise you of the terms of the settlement tomorrow if one is reached today.

Thanks ---JLG

Jennifer Green, J.D.  
Claim Specialist  
Interstate Fire and Casualty Company, a Fireman's Fund Insurance Company  
33 W. Monroe, 12th Floor  
Chicago, Illinois 60603  
(800) 628-8574 ext. 452300 or  
(312) 629-2300  
Fax: (888) 264-1579

— Forwarded by Jennifer Green/FFIC on 03/21/2007 04:53 PM —

Jennifer Green/FFIC

To "Cruz, Diane" <dcruz@unitednat.com>@FFICSMTP

cc

03/21/2007 04:47 PM

Subject RE: Cirrus Medical [Link](#)

3/23/2007

UNIC0150